

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION CORPORATION,  Plaintiff,  v. BERNARD L. MADOFF INVESTMENT SECURITIES LLC,  Defendant.
In re:  BERNARD L. MADOFF,  Debtor.
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,  Plaintiff,  v. BORDIER & CIE,  Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 12-01695 (CGM)

**NOTICE OF JOINDER IN OBJECTING DEFENDANTS' OPPOSITION TO  
TRUSTEE'S MOTION FOR ORDER AMENDING ORDER APPOINTING A  
DISCOVERY ARBITRATOR PURSUANT TO BANKRUPTCY RULE 9019(c) AND  
GENERAL ORDER M-390**

Defendant Bordier & Cie SCmA ("Bordier"), in Adv. Pro. No. 12-01695 (CGM), hereby objects to the Motion for Order Amending Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390, filed in Adv. Pro. No. 08-01789 (CGM), ECF 23449, 23454 ("Trustee's Motion"), by Irving H. Picard, as trustee for the liquidation of Bernard L. Madoff Investment Securities LLC and the estate of Bernard L. Madoff

(“Trustee”), and joins in all aspects of the Opposition to the Trustee’s Motion, ECF 23516, filed by Objecting Defendants, except for ¶¶ 8, 19 (third sentence), 32-38 and the final sentence of the Conclusion paragraph.

Bordier is a party to one of the adversary proceedings, referred to by the Trustee as the Subsequent Transfer Cases, in which the Case Management Plan does not provide for mandatory discovery arbitration, and as such, the fallback position advocated by Objecting Defendants in their Opposition – that, at a minimum, the Court deny the Trustee’s Motion only with respect to adversary proceedings with previously entered Case Management Plans that (1) provide for mandatory discovery arbitration and (2) cite the existing Order Appointing a Discovery Arbitrator – would not be adequate to protect the rights of Bordier, which is in all other relevant respects identically situated to Objecting Defendants.

Because the Trustee has failed to justify the modification to the Order Appointing a Discovery Arbitrator he seeks, under either Rule 60(b)(5) or Rule 60(b)(6), the Trustee’s Motion should be denied in its entirety as to all defendants who are parties to the Subsequent Transfer cases.

Dated: September 6, 2023  
New York, New York

ALLEGAERT BERGER & VOGEL LLP

By: /s/ John F. Zulack

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